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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/155,231	09/23/1998	SEPPO HAMALAINEN	11902.9USWO	8336

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EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 05/14/2004

31

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/155,231

Applicant(s)

HAMALAINEN ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,8,11,14-23,25,27,29-39,41,43 and 45 is/are allowed.
- 6) ☒ Claim(s) 1,5-7,10,12,13,24,26,28,40,42 and 44 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 21 March 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 24, 26, 28, 40, 42, and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the above claims, lines 7-8, the limitation recited of "determining a personal station frequency of transmission of a personal station power control command" is not supported by the original disclosure.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

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published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claim 1, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Javitt et al (U.S. Patent 5,805,585).

Regarding to claims 1, 12, and 13, Javitt discloses a wireless communication system where a base station (implicitly shown) and a personal station (implicitly shown) are parties to the radio connection and during operation between them either party may send a power control command, which will change the transmission power of the other party, wherein the base station or the personal station is further arranged to identify a change in data transfer of the first party by the second party(Fig. 2 col. 5 lines 2-3, the transmitter read on either the base station or personal station to identify the change in data transfer) and change 23, in response to the change in the data transfer, the manner (adjusting the power) in which the power control commands (escape sequence) to be in accordance with the changed data transfer (Fig. 2 col. 5 lines 5-11).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Javitt in view of Padovani et al (U.S. Patent 5,396,516).

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Regarding to claim 5, Javitt discloses all the limitation with respect to claim 1, except for when the transmission rate of the first party is decreased, the second party will lower the energy of power control commands to be sent to the first party and, correspondingly, when the transmission rate of the first party is increased, the second party will increase the energy of power control commands.

However, Padovani discloses a communication system with a power command generator (energy) for power up or down a data transmission based on a rate indication (col. 7 lines 3-17).

Thus, it would have been obvious to a person of ordinary skill in the art to include the power command generator as taught be Padovani in Javitt's system to adjust the transmission power in such a way that the transmitted signals can be recover with minimal interference. The motivation to do so would have been to maintain an acceptable balance of interference and signal quality for communication between the mobile and base station.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Javitt in view of Li (U.S. Patent 5,553,410).

Regarding to claims 6 and 7, Javitt discloses all the limitation with respect to claim 1, except for the change in transmission rate of the first party is declared in a field of a transmission frame reserved for this purpose (claim 6); the change in transmission rate of the first party is declared by changing a structure of a transmission frame directly to correspond with the new transfer rate (claim 7).

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However, Li discloses a variable data rate communication system with a field in transmission frame indicating change of transmission rate of subsequent frames (Fig. 4 col. 7 lines 1-9); and an alternate frame structures corresponding different data rates (col. 10 lines 43-59).

Thus, it would have been obvious to a person of ordinary skill in the art to include an indication of a change in the data transfer of subsequent frames as taught by Li in Javitt's system to inform the receiver the rate at which to processed subsequent frames. The motivation to do so would have been to reduce the processing load of the receiver, wherein the receiver can process subsequent frame without the need of processing it at the various possible data rate to determine which data rate to utilize.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Javitt in view of Love et al (U.S. Patent 5,745,520).

Regarding to claim 10, Javitt discloses all the limitation with respect to claim 1, except for the power control command change in step size.

However, Love discloses a method for power control adjustment in a spread-spectrum communication system using threshold step-size (Fig. 3 col. 5 lines 25-39).

Thus, it would have been obvious to a person of ordinary skill in the art to include the power control adjustment as taught by Love in Javitt's system to dynamically adjust the transmission power between the base station and mobile using step size. The motivation to do so would have been to accommodate the system with basic adjustment for the transmission power without requiring heavy computation.

Allowable Subject Matter

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9. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 3, 4, 8, 11, 14-23, 25, 27, 29-39, 41, 43, and 45 are allowed.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 703-605-5146. The examiner can normally be reached on M-Th (9:00 AM-6:00 PM).

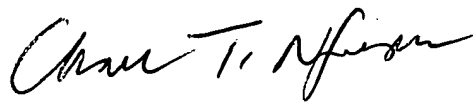
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD

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